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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,590

10/28/2003

Larry W. Stults

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01/10/2006

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EXAMINER

GOINS, DAVETTA WOODS

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,590

Applicant(s)

STULTS ET AL.

Examiner

Davetta W. Goins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-114 and 116-137 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 106-114 and 116-120 is/are allowed.
- 6) ☒ Claim(s) 34-36, 39-49, 51-68, 70-74, 78-101, 103-105 and 121-137 is/are rejected.
- 7) ☒ Claim(s) 37, 38, 50, 69, 75-77 and 102 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Allowable Subject Matter

1. Claims 37, 38, 50, 69, 75-77 and 102 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 106-120 are allowed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 34, 35, 40-42, 43, 45, 47-49, 57, 58, 60, 62, 63, 65, 66, 70-74, 87, 89, 93-95, 97, 98, 103, 104, 121 and 128 are rejected under 35 U.S.C. 102(e) as being anticipated by Bevan et al. (US Pat. 6,661,345 B1).

In reference to claims 34, 42, 43, 45, 47, 48, 57, 62, 63, 65, 66, 71, 72, 87, 94, 95, 97, 98, 121, Bevan discloses a) the claimed method of monitoring a safety condition, which is met by an alertness monitoring system including sensors 11, 13 and 14 to detect the attentiveness of a driver that will determine whether the driver is capable of driving (safety condition) (col. 4, lines

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44-67; col. 5, lines 1-28), b) the claimed method of transmitting a first communication to a person in a form perceivable by the person if the safety condition is detected, which is met by a first stage alarm may be triggered and stimulus control 220 will give a signal to the subject upon determining that a threshold has exceeded with one of the sensor(s) such as providing an audio sound (col. 7, lines 43-67), and c) the claimed method detecting motion and ceasing transmission of the first communication if motion is detected, which is met by the system continues to monitor the subject with sensor(s) and if increased activity, such as the subject turns his/her head to view the stimulus (motion detected), then the system will reset the first stage alert trigger (col. 7, lines 43-67).

In reference to claims 35, 58, 89, Bevan discloses the claimed transmitter transmits a tone for at least the first communication, which is met by sensor detecting an exceeded threshold, an alarm with a sound is issued (col. 7, lines 43-67; col. 8, lines 1-38).

In reference to claims 40, 60, 74, 93, Bevan discloses the claimed second communication is at least one of audible communication and visual communication, which is met by the second stage alert which is more pronounced such as with a louder audio sound level, or increased light level (col. 14, lines 1-10).

In reference to claims 41, 49, 70, 73, 128, Bevan discloses the claimed audible communication comprising audible customized communication, which is met by once the threshold index is reached, the processing device could be set to activate the stimulus control to, say, activate a

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voice control that informs the driver to relax, or release calming aromatherapy scent (col. 9, lines 54-63).

In reference to claims 103, 104, Bevan discloses the claimed method of at least transmitting the first communication comprising a synthesized message, which is met by once the threshold index is reached, the processing device could be set to activate the stimulus control to, say, activate a voice control that informs the driver to relax, or release calming aromatherapy scent (col. 9, lines 54-63).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 36, 39, 44, 59, 88, 90, 92 and 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bevan et al.

In reference to claims 36, 59, 90, although Bevan does not specifically disclose the claimed transmitter transmits a plurality of tones for, he does disclose that a second stage alert can be more pronounced than the first by being a louder sound level (col. 14, lines 1-10). Since Bevan discloses a system that is capable of transmitting a louder sound upon detection of the driver not responding to the first alarm, it would have been obvious to one of ordinary skill in the art at the

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time of the invention to use a plurality of different tones to ensure that the driver becomes awake and responsive to their driving situation.

In reference to claims 39, 92, 122, although Bevan does not specifically disclose the claimed safety detector detecting smoke, heat, carbon monoxide, radon gas, or seismic vibrations, he does disclose a system that detects various conditions of the driver such as eye blink, heart rate, head motion, as well as the vehicle's steering motion, acceleration, speed, etc. (col. 5). Since Bevan discloses various conditions that should be monitored prior to giving the driver an alarm, it would have been obvious to one of ordinary skill in the art at the time of the invention to detect any type of condition that may pose has a hazard or safety condition to the driver that may affect the driver's attentiveness.

In reference to claims 44, 88, although Bevan does not specifically disclose the claimed first communication including the name of a person or with an instruction, he does disclose that once the threshold index is reached, the processing device could be set to activate the stimulus control to, say, activate a voice control that informs the driver to relax, or release calming aromatherapy scent (col. 9, lines 54-63). Since Bevan discloses that a voice can be used as the communication to the person, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a prerecorded message to include the name of the person that is driving, that includes words that are personalized that may be more likely to arouse the driver.

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7. Claims 46, 67, 106, 123-127 and 132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bevan et al. in view of Byon (US Pat. 5,646,612).

In reference to claims 46, 67, 123-127, 132, although Bevan does not specifically disclose the claimed first communication is an audible communication in a voice of a first person and the second communication is an audible communication in a voice of a second person, he does disclose that once the threshold index is reached, the processing device could be set to activate the stimulus control to, say, activate a voice control that informs the driver to relax, or release calming aromatherapy scent (col. 9, lines 54-63). Byon discloses the claimed method for monitoring for a safety condition, if the safety condition is detected then transmitting a communication in a first voice to a person in a form perceivable by the person; and transmitting a communication in a second voice to the person in the form perceivable by the person, which is met by a system that monitors the surroundings of a vehicle to prevent a collision (safety condition) and produces a first voice signal upon determining that the detected obstacle is a person, and issuing a second voice signal upon detecting that the detected obstacle is an animal (col. 8, lines 1-41). Since both Bevan and Byon disclose vehicle systems that communicate voice messages to the driver upon detecting attentiveness, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a first and second voice to communicate to the driver to provide a voice that may change in inflection and provide a stimulus that will awaken a drowsy driver.

In reference to claim 106, Byon discloses the claimed method for monitoring for a safety condition, if the safety condition is detected then transmitting a communication in a first voice to a person in a form perceivable by the person; and transmitting a communication in a second voice to the person in the form perceivable by the person, which is met by a system that monitors the surroundings of a vehicle to prevent a collision (safety condition) and produces a first voice signal upon determining that the detected obstacle is a person, and issuing a second voice signal upon detecting that the detected obstacle is an animal (col. 8, lines 1-41).

8. Claims 51-56, 61, 64, 68, 78-86, 96, 99-101, 105, 130, 131 and 133-137 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bevan et al. in view of Kleinberg (US Pat. 6,154,123).

In reference to claims 51-56, 61, 64, 68, 78-86, 96, 99-101, 105, 130, 131, 133-137, Bevan does not specifically disclose the claimed input device for accepting a user command, a sound input, and processor responding to the command by storing the received audible signal as an audible customized communication in memory, the processor causing the transmitter to transmit the audible customized communication as at least a first or second communication. However, Bevan does disclose that once the threshold index is reached, the processing device could be set to activate the stimulus control to, say, activate a voice control that informs the driver to relax, or release calming aromatherapy scent (col. 9, lines 54-63). Kleinberg discloses a system to alert the driver upon detecting various conditions about the driver. The system includes a means can be a buzzer 36, other audible alarm, or it can be a voice-based warning system available through

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the speech generation device 16, where either a pre-recorded or synthesized phrase is spoken to warn the driver of an improper alertness response. Part of this driver notification process is a criticality evaluation that determines successive actions dependent on other factors such as time since previous alertness notification, vehicle speed and output from the auxiliary sensors described below (col. 3, lines 23-67; col. 4, lines 1-35). Since both Bevan and Kleinberg disclose systems that determine the alertness of a driver and providing a vocal output upon detecting that a condition has exceeded a threshold, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of customizing an audible signal, as disclosed by Kleinberg, with the system of Bevan, to ensure that the driver is capable of personalizing the system such that the alarm given is most suited to wake the specific driver.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957.

The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D.W.G.

January 6, 2006

Davetta W. Goins
Primary Examiner
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